



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB3121

Introduced 2/7/2014, by Sen. Dave Syverson

SYNOPSIS AS INTRODUCED:

415 ILCS 5/3.386 new

415 ILCS 5/3.388 new

415 ILCS 5/9.4

from Ch. 111 1/2, par. 1009.4

415 ILCS 5/22.16b

from Ch. 111 1/2, par. 1022.16b

Amends the Environmental Protection Act. Changes the definition of "municipal waste incineration" to exclude the combustion of certain materials that might otherwise qualify as municipal waste. Makes, as a result, the Act's municipal waste incineration emission standards inapplicable to facilities where those waste-derived materials are combusted. Authorizes the Illinois Pollution Control Board to determine, based solely on certain federal standards, which of these waste-derived materials do not qualify as municipal waste. Effective immediately.

LRB098 19700 MGM 54910 b

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by
5 changing Sections 9.4 and 22.16b and by adding Sections 3.386
6 and 3.388 as follows:

7 (415 ILCS 5/3.386 new)

8 Sec. 3.386. Refuse-derived fuel. "Refuse-derived fuel"
9 means a type of municipal solid waste produced by processing
10 municipal solid waste through shredding and size
11 classification. "Refuse-derived fuel" includes all classes of
12 refuse-derived fuel ranging in density from low-density fluff
13 refuse-derived fuel through densified refuse-derived fuel and
14 pelletized refuse-derived fuel. "Refuse-derived fuel" shall
15 not include bio-derived fuels.

16 (415 ILCS 5/3.388 new)

17 Sec. 3.388. Bio-derived fuel. "Bio-derived fuel" means any
18 fuel produced from biomass, solid waste, or mixtures thereof,
19 by using a carbonization, pyrolysis, or gasification process to
20 alter the chemical composition of the end product by:

21 (a) reducing the moisture content to less than 2% by
22 weight;

- 1 (b) increasing the heating value to at least 9,500 Btus/lb;
2 (c) increasing the energy density to at least 250,000
3 Btus/cubic foot; or
4 (d) removing substantial amounts of sulfur and chlorine.

5 (415 ILCS 5/9.4) (from Ch. 111 1/2, par. 1009.4)

6 Sec. 9.4. Municipal waste incineration emission standards.

7 (a) The General Assembly finds:

8 (1) That air pollution from municipal waste
9 incineration may constitute a threat to public health,
10 welfare and the environment. The amounts and kinds of
11 pollutants depend on the nature of the waste stream,
12 operating conditions of the incinerator, and the
13 effectiveness of emission controls. Under normal operating
14 conditions, municipal waste incinerators produce
15 pollutants such as organic compounds, metallic compounds
16 and acid gases which may be a threat to public health,
17 welfare and the environment.

18 (2) That a combustion and flue-gas control system,
19 which is properly designed, operated and maintained, can
20 substantially reduce the emissions of organic materials,
21 metallic compounds and acid gases from municipal waste
22 incineration.

23 (b) It is the purpose of this Section to insure that
24 emissions from new municipal waste incineration facilities
25 which burn a total of 25 tons or more of municipal waste per

1 day are adequately controlled.

2 Such facilities shall be subject to emissions limits and
3 operating standards based upon the application of Best
4 Available Control Technology, as determined by the Agency, for
5 emissions of the following categories of pollutants:

6 (1) particulate matter, sulfur dioxide and nitrogen
7 oxides;

8 (2) acid gases;

9 (3) heavy metals; and

10 (4) organic materials.

11 (c) The Agency shall issue permits, pursuant to Section 39,
12 to new municipal waste incineration facilities only if the
13 Agency finds that such facilities are designed, constructed and
14 operated so as to comply with the requirements prescribed by
15 this Section.

16 Prior to adoption of Board regulations under subsection (d)
17 of this Section the Agency may issue permits for the
18 construction of new municipal waste incineration facilities.
19 The Agency determination of Best Available Control Technology
20 shall be based upon consideration of the specific pollutants
21 named in subsection (d), and emissions of particulate matter,
22 sulfur dioxide and nitrogen oxides.

23 Nothing in this Section shall limit the applicability of
24 any other Sections of this Act, or of other standards or
25 regulations adopted by the Board, to municipal waste
26 incineration facilities. In issuing such permits, the Agency

1 may prescribe those conditions necessary to assure continuing
2 compliance with the emission limits and operating standards
3 determined pursuant to subsection (b); such conditions may
4 include the monitoring and reporting of emissions.

5 (d) Within one year after July 1, 1986, the Board shall
6 adopt regulations pursuant to Title VII of this Act, which
7 define the terms in items (2), (3) and (4) of subsection (b) of
8 this Section which are to be used by the Agency in making its
9 determination pursuant to this Section. The provisions of
10 Section 27(b) of this Act shall not apply to this rulemaking.

11 Such regulations shall be written so that the categories of
12 pollutants include, but need not be limited to, the following
13 specific pollutants:

14 (1) hydrogen chloride in the definition of acid gases;

15 (2) arsenic, cadmium, mercury, chromium, nickel and
16 lead in the definition of heavy metals; and

17 (3) polychlorinated dibenzo-p-dioxins, polychlorinated
18 dibenzofurans and polynuclear aromatic hydrocarbons in the
19 definition of organic materials.

20 (e) For the purposes of this Section, the term "Best
21 Available Control Technology" means an emission limitation
22 (including a visible emission standard) based on the maximum
23 degree of pollutant reduction which the Agency, on a
24 case-by-case basis, taking into account energy, environmental
25 and economic impacts, determines is achievable through the
26 application of production processes or available methods,

1 systems and techniques, including fuel cleaning or treatment or
2 innovative fuel combustion techniques. If the Agency
3 determines that technological or economic limitations on the
4 application of measurement methodology to a particular class of
5 sources would make the imposition of an emission standard not
6 feasible, it may instead prescribe a design, equipment, work
7 practice or operational standard, or combination thereof, to
8 require the application of best available control technology.
9 Such standard shall, to the degree possible, set forth the
10 emission reduction achievable by implementation of such
11 design, equipment, work practice or operation and shall provide
12 for compliance by means which achieve equivalent results.

13 (f) "Municipal waste incineration" means the burning of
14 municipal waste or fuel derived therefrom in a combustion
15 apparatus designed to burn municipal waste that may produce
16 electricity or steam as a by-product. A "new municipal waste
17 incinerator" is an incinerator initially permitted for
18 development or construction after January 1, 1986. For the
19 purposes of this Section, "municipal waste incineration" does
20 not include the burning of any fuel considered "bio-derived
21 fuel" under Section 3.386 of this Act. For the purposes of this
22 Section, municipal waste and fuel derived from municipal waste
23 do not include non-hazardous secondary material that is
24 excluded from solid waste when used legitimately as a fuel or
25 an ingredient in a combustion unit in accordance with the
26 standards and criteria set forth in 40 CFR Part 241. The

1 determination of whether a material is a solid waste pursuant
2 to the standards and criteria in Part 241 shall be obtained
3 from the United States Environmental Protection Agency (USEPA)
4 in accordance with the procedures for USEPA determinations at
5 40 CFR Part 241 or from the Board. For the purposes of this
6 Section, the determinations shall apply only to non-hazardous
7 secondary materials pursuant to Part 241 that are also
8 municipal waste pursuant to Section 3.290 of this Act. For
9 waste determinations made by the Board under this subsection
10 (f), the Board shall make the waste determinations in
11 accordance with the standards and criteria for discarded
12 non-hazardous secondary materials as provided at 40 CFR Part
13 241.

14 (g) The provisions of this Section shall not apply to
15 industrial incineration facilities that burn waste generated
16 at the same site.

17 (Source: P.A. 91-357, eff. 7-29-99; 92-574, eff. 6-26-02.)

18 (415 ILCS 5/22.16b) (from Ch. 111 1/2, par. 1022.16b)

19 Sec. 22.16b. (a) Beginning January 1, 1991, the Agency
20 shall assess and collect a fee from the owner or operator of
21 each new municipal waste incinerator. The fee shall be
22 calculated by applying the rates established from time to time
23 for the disposal of solid waste at sanitary landfills under
24 subdivision (b)(1) of Section 22.15 to the total amount of
25 municipal waste accepted for incineration at the new municipal

1 waste incinerator. The exemptions provided by this Act to the
2 fees imposed under subsection (b) of Section 22.15 shall not
3 apply to the fee imposed by this Section.

4 The owner or operator of any new municipal waste
5 incinerator permitted after January 1, 1990, but before July 1,
6 1990 by the Agency for the development or operation of a new
7 municipal waste incinerator shall be exempt from this fee, but
8 shall include the following conditions:

9 (1) The owner or operator shall provide information
10 programs to those communities serviced by the owner or
11 operator concerning recycling and separation of waste not
12 suitable for incineration.

13 (2) The owner or operator shall provide information
14 programs to those communities serviced by the owner or
15 operator concerning the Agency's household hazardous waste
16 collection program and participation in that program.

17 For the purposes of this Section, "new municipal waste
18 incinerator" means a municipal waste incinerator initially
19 permitted for development or construction on or after January
20 1, 1990. A municipal waste incinerator qualifies as a municipal
21 waste incineration facility under Section 9.4 of this Act.

22 Amounts collected under this subsection shall be deposited
23 into the Municipal Waste Incinerator Tax Fund, which is hereby
24 established as an interest-bearing special fund in the State
25 Treasury. Monies in the Fund may be used, subject to
26 appropriation:

1 (1) by the Department of Commerce and Economic
2 Opportunity to fund its public information programs on
3 recycling in those communities served by new municipal
4 waste incinerators; and

5 (2) by the Agency to fund its household hazardous waste
6 collection activities in those communities served by new
7 municipal waste incinerators.

8 (b) Any permit issued by the Agency for the development or
9 operation of a new municipal waste incinerator shall include
10 the following conditions:

11 (1) The incinerator must be designed to provide
12 continuous monitoring while in operation, with direct
13 transmission of the resultant data to the Agency, until the
14 Agency determines the best available control technology
15 for monitoring the data. The Agency shall establish the
16 test methods, procedures and averaging periods, as
17 certified by the USEPA for solid waste incinerator units,
18 and the form and frequency of reports containing results of
19 the monitoring. Compliance and enforcement shall be based
20 on such reports. Copies of the results of such monitoring
21 shall be maintained on file at the facility concerned for
22 one year, and copies shall be made available for inspection
23 and copying by interested members of the public during
24 business hours.

25 (2) The facility shall comply with the emission limits
26 adopted by the Agency under subsection (c).

1 (3) The operator of the facility shall take reasonable
2 measures to ensure that waste accepted for incineration
3 complies with all legal requirements for incineration. The
4 incinerator operator shall establish contractual
5 requirements or other notification and inspection
6 procedures sufficient to assure compliance with this
7 subsection (b) (3) which may include, but not be limited to,
8 routine inspections of waste, lists of acceptable and
9 unacceptable waste provided to haulers and notification to
10 the Agency when the facility operator rejects and sends
11 loads away. The notification shall contain at least the
12 name of the hauler and the site from where the load was
13 hauled.

14 (4) The operator may not accept for incineration any
15 waste generated or collected in a municipality that has not
16 implemented a recycling plan or is party to an implemented
17 county plan, consistent with State goals and objectives.
18 Such plans shall include provisions for collecting,
19 recycling or diverting from landfills and municipal
20 incinerators landscape waste, household hazardous waste
21 and batteries. Such provisions may be performed at the site
22 of the new municipal incinerator.

23 The Agency, after careful scrutiny of a permit application
24 for the construction, development or operation of a new
25 municipal waste incinerator, shall deny the permit if (i) the
26 Agency finds in the permit application noncompliance with the

1 laws and rules of the State or (ii) the application indicates
2 that the mandated air emissions standards will not be reached
3 within six months of the proposed municipal waste incinerator
4 beginning operation.

5 (c) The Agency shall adopt specific limitations on the
6 emission of mercury, chromium, cadmium and lead, and good
7 combustion practices, including temperature controls from
8 municipal waste incinerators pursuant to Section 9.4 of the
9 Act.

10 (d) The Agency shall establish household hazardous waste
11 collection centers in appropriate places in this State. The
12 Agency may operate and maintain the centers itself or may
13 contract with other parties for that purpose. The Agency shall
14 ensure that the wastes collected are properly disposed of. The
15 collection centers may charge fees for their services, not to
16 exceed the costs incurred. Such collection centers shall not
17 (i) be regulated as hazardous waste facilities under RCRA nor
18 (ii) be subject to local siting approval under Section 39.2 if
19 the local governing authority agrees to waive local siting
20 approval procedures.

21 (Source: P.A. 94-793, eff. 5-19-06.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.